IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL REVISION APPLICATION No.161 of 2007

Manjiri Madhukar Deshmukh ..Applicant.

Vs.

M/s Omega Information Systems & Ors Respondents.

Mr A. M. Kulkarni, Advocate for the Applicant.

Mr S. S. Patwardhan, Advocate for the Respondent No.1.

Ms S. D. Shinde APP for the RespondentNo.2 -State.

CORAM: V.C. DAGA,J.

DATED: 10th December, 2007.

P.C.:-

1. Heard learned counsel appearing for the applicant-accused, learned counsel for the respondent No.2-original complainant and learned APP for the respondent- State of Maharashtra.

2. Perused revision petition with documents annexed thereto.

3. The applicant has invoked revisional jurisdiction of this Court to challenge the order dated 5.2.2007 passed in Criminal Appeal No. 107 of 2005 by the Principal

Sessions Judge,Sangli, ("the first Aoppellate Court" for short) dismissing the appeal and confirming the order of conviction against the accused-applicant for the offence punishable under Section 138 of the Negotible Instruments Act and remanding matter back to the Trial Court to hear the parties afresh and to pass appropriate order of sentence.

4. The learned counsel appearing for the applicant tried to contend that the impugned order is erroneous and based on erroneous consideration that the cheque was given by the applicant in discharge of its enforceable debt. He further submits that the impugned order passed by the Court below to the extent it imposes fine is legal and valid and needs no interference.

5. Having seen the impugned order the view taken by the Sessions Judge is a reasonable and possible view. None of the submissions advanced by the learned counsel for the applicant needs specific consideration, since each of them are considered by the Courts with which I concur. It is, thus, not necessary to repeate the same.

6. The main contention canvassed by the learned counsel for the applicant is that the execution proceeding before the learned Civil Judge, Senior Division, Sangli which was initiated by the respondent no.1 in which cheque was given, was bad and illegal and the same was without authority of Law. This contention was never raised either in the Trial Court or before the lower Appellate Court. Apart from this, the contention has no merit because the applicant's son had not only given cheque in question; but also paid Rs. 25,000/-. The said cheque was given for discharge of legal debt, which as on date is due and recoverable from the present applicant. Under these circumstances, no case is made out to interfere with the impugned order.

7. Reliance is placed on the Full Bench Judgment of this Court in **ARBP No. 14 of 2005 (M/s. Maria Archangela Vs. Sequeira dated 12.4.2007 -unreported)** which in my view is misplaced.

8. In the above view of the matter, no case

is made out to interfere with the impugned order. In the result, the revision application has no merit. Same is accordingly dismissed with no order as to costs.

(V.C.DAGA,J)